

## REMARKS

Attached hereto is an Excess Claims Fee letter for excess claims.

It is noted that, notwithstanding any claim amendments made herein, Applicant's intent is to encompass equivalents of all claim elements, even if amended herein or later during prosecution.

Claims 1-50 are all of the claims pending in the present Application. New claim 50 is added to further highlight that, in some exemplary embodiments of the present invention, the inaccessibility is further enhanced by encrypting the biometric measurement prior to storing the data for comparison in later authentications. Claims 20-38 and 41-48 are allowed. Claims 1-6, 14, 19, 39, and 49 stand rejected under 35 USC §102(b) as anticipated by US Patent 5,623,552 to Lane.

Applicants gratefully acknowledge the Examiner's indication that claims 7-13, 15-18, and 40 would be allowable if rewritten in independent format and have accordingly rewritten these claims in order to place these claims into condition for immediate allowance

The rejection based on newly-cited Lane is respectfully traversed in view of the following discussion.

### I. THE CLAIMED INVENTION

As described and claimed, for example by claim 1, the present invention is directed to a method of authenticating a subject, using on or a plurality of biometric measurements for authentication without any sharing of the subject's biometric data. The authentication is accomplished without any of the one or plurality of biometric measurements being accessible in any form to any external device or external party. As one exemplary specific implementation to further preclude accessibility, the biometric data is encrypted prior to being stored for later authentication.

This version of the present invention is significant in that it further safeguards inaccessibility of biometric data on, for example, a credit card that is discarded by its rightful owner or stolen. Without this exemplary additional feature of encryption of the biometric data, a discarded card would contain biometric data of its previous owner that would be

accessible to anyone caring to read the stored data. Encryption adds an extra level of inaccessibility for the original owner's biometric data.

The prior art of record fails to teach or suggest this capability (or structure) of preventing an invasion of privacy by including an additional safeguard for accessibility of biometric data even if the owner innocently disposes of the credit card without thinking to adequately destroy the device that stores the biometric data.

## II. THE PRIOR ART REJECTION

The Examiner alleges that US Patent 5,623,552 to Lane anticipates claims 1-6, 14, 19, 39, and 49.

Applicants disagree, since this newly-applied reference fails to teach or reasonably suggest at least one of the aspects of the present invention described in these claims. Lane represents a conventional method that arguably resembles some potential embodiments of the present invention by incorporating at least some of the techniques disclosed.

However, the present invention expressly addresses the problem of accessibility of a subject's biometric information, whether intentional or unintentional. Because Lane's intent does not expressly address the accessibility of the subject's biometric information, it fails to recognize that a credit card that stores biometric data and that is stolen, or even simply discarded by its owner, potentially exposes this biometric data as accessible to external agents.

Indeed, the embodiment discussed beginning at line 45 of column 8 clearly demonstrates that inaccessibility of the biometric information is not a concern in Lane.

In contrast, because the present invention addresses accessibility of the biometric data, it includes, in exemplary embodiments, the additional level of protection of the biometric data by encrypting the biometric data before it is stored in a memory for comparison in later authentications.

Hence, turning to the clear language of the claims, there is no teaching or suggestion of “... said biometric data being encrypted to further preclude accessibility by said external device or external party”, as required by claims 1, 14, and 39.

Although rejected claim 49 does not expressly include the alternative technique of encryption, it highlights exemplary embodiments of the present invention in which more than

one type of biometric measurement is obtained in an environment in which accessibility is safeguarded.

For the reasons stated above, Applicants submit that the claimed invention is fully patentable over Lane.

Further, the other prior art of record has been reviewed, but it too, even in combination with Lane, fails to teach or suggest the claimed invention.

### III. FORMAL MATTERS AND CONCLUSION

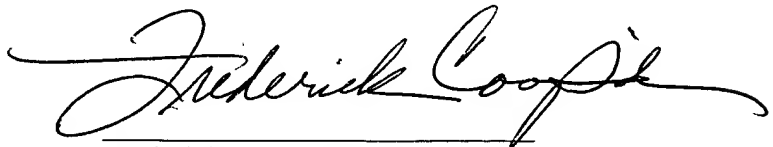
In view of the foregoing, Applicant submits that claims 1-50, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

Date: 9/8/04



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